

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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DAVID J. EDDIS,      :
                    :
      Plaintiff      :
                    :
      v.             : CIVIL ACTION NO. 02-3604
                    :
UNITED STATES OF AMERICA, :
                    :
      Defendant      :
-----x
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ANSWER OF UNITED STATES OF AMERICA TO COMPLAINT

The United States of America hereby answers the
Complaint as follows:

FIRST DEFENSE

1. Is without information or knowledge sufficient to
form a belief as to the truth of the averments in Paragraph 1 of
the Complaint.

2. Admits the averments in Paragraph 2 of the
Complaint.

3. Admits each and every averment in Paragraph 3 of the
Complaint, except denies that Dr. Judge is correctly identified.
To the contrary, he is Thomas A. Judge, M.D., not Thomas M. Judge,

M.D.

4. Denies the averments in Paragraph 4 of the Complaint. To the contrary, a denial of the claim was sent to plaintiff's counsel on July 16, 2002.

5. Denies the averments in Paragraph 5 of the Complaint. To the contrary, the Court's jurisdiction arises under 28 U.S.C. §1346(b).

6. Admits the averments in Paragraph 6 of the Complaint.

7. Admits the averments in Paragraph 7 of the Complaint.

8. Denies the averments in Paragraph 8 of the Complaint. To the contrary, plaintiff's informed consent was obtained in advance of the procedure. Furthermore, Dr. Thomas A. Judge did not breach any duty of care to plaintiff.

9. Admits each and every averment in Paragraph 9 of the

Complaint, except denies that Dr. Judge is correctly identified. To the contrary, he is Thomas A. Judge, M.D., not Thomas M. Judge, M.D.

10. Incorporates, herein by reference, the averments in Paragraphs 1-9, supra, as if set forth again in full.

11. Admits the averments in Paragraph 11 of the Complaint. By way of further answer, denies that Dr. Thomas A. Judge breached any duty to plaintiff.

12. Denies the averments in Paragraph 12 of the Complaint. By way of further answer, on September 24, 1999, before the procedure, Dr. Judge provided plaintiff with an informed consent which specifically discussed perforation as one of the risks, and plaintiff signed the informed consent.

13-14. Denies the averments in Paragraphs 13-14 of the Complaint.

15. Is without information or knowledge sufficient to form a belief as to the truth of the averments in Paragraph 15 of the Complaint.

16. Incorporates, herein by reference, the averments in Paragraphs 1-15, supra, as if set forth again in full.

17. Denies the averments in Paragraph 17 of the Complaint.

18. Is without information or knowledge sufficient to form a belief as to the truth of the averments in Paragraph 18 of the Complaint.

19. Denies the averments in Paragraph 19 of the Complaint.

SECOND DEFENSE

The United States did not breach any duty of care to plaintiff.

THIRD DEFENSE

Prior to the subject colonoscopy, plaintiff signed an informed consent which enumerated the risks of the procedure, including but limited to perforation of the colon.

FOURTH DEFENSE

Plaintiff's injuries were not caused by any unlawful act or omission of the United States.

WHEREFORE, the United States of America respectfully asks that judgment be entered in its favor and against plaintiff, with costs and with such other relief as the Court may deem appropriate.

Respectfully submitted,

PATRICK L. MEEHAN
United States Attorney

JAMES G. SHEEHAN
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Chief, Civil Division

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer of United States was served by United States Mail, postage prepaid, first-class, this 31st day of July, 2002 on:

David S. Dessen, Esquire
Dessen, Moses & Sheinoff
1814 Chestnut Street
Philadelphia PA 19103

RICHARD M. BERNSTEIN
Assistant United States Attorney